

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIAOrder Instituting Rulemaking to Continue Implementation
and Administration of California Renewables Portfolio
Standard Program.Rulemaking 11-05-005
(Filed on May 5, 2011)**DECISION GRANTING COMPENSATION TO SUSTAINABLE CONSERVATION FOR
SUBSTANTIAL CONTRIBUTION TO DECISION 14-12-081**

Intervenor: Sustainable Conservation	For contribution to Decision (D.) 14-12-081
Claimed: \$ 11,579.50	Awarded: \$11,565.00 (reduced 0.12%)
Assigned Commissioner: Carla J. Peterman	Assigned ALJ: Simon and Mason

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	D.14-12-081 implements Senate Bill 1122 (2012), which requires that investor-owned utilities procure mandated quantities of generation eligible for the Renewable Portfolio Standard (RPS) from specified types of bioenergy.
--	---

**B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util.
Code §§ 1801-1812:**

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	June 13, 2011	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	June 9, 2011	Verified
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:		
6. Date of ALJ ruling:		
7. Based on another CPUC determination (specify):	D.13-10-039 in R.11-05-005	Verified

	Intervenor	CPUC Verified
	D.14-11-037 in R.11-09-011	
8. Has the Intervenor demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:		
10. Date of ALJ ruling:		
11. Based on another CPUC determination (specify):	D.13-10-039 in R.11-05-005 D.14-11-037 in R.11-09-011	Verified
12. Has the Intervenor demonstrated significant financial hardship?		Yes; but <i>see</i> part III.D.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-12-081	Verified
14. Date of issuance of Final Order or Decision:	12/26/2014	Verified
15. File date of compensation request:	2/24/2015	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
1	The Commission did not hold a Prehearing Conference on the issues related to SB 1122 implementation.	The Commission accepts this assertion.
3	NOI was filed on June 9 pursuant to direction in the OIR, which directed parties to file updated Notices of Intent within 30 days of when the OIR was mailed (May 10, 2011). This NOI stated that Sustainable Conservation expected to participate on specific issues and “other issues that may arise.” SB 1122 implementation was a new issue that arose after the proceeding was undersay.	The Commission accepts this assertion.
5	Sustainable Conservation has been awarded intervenor compensation within the last year (D.14-11-037). In	The Commission accepts this assertion.

	<p>order to assure the Commission that this finding is still valid, we are attaching again our bylaws, which demonstrate that the organization qualifies as a Category 3 customer. (See Article 3, Section 1 of the Bylaws, which states that the corporation “shall have powers to the full extent allowed by law, including but not limited to the power to represent the interests of California residential electrical and natural gas customers and small commercial electrical and natural gas customers, including those who receive bundled electrical and/or natural gas service from investor-owned electrical and/or natural gas services corporations.”</p>	
--	---	--

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(i), § 1803(a), and D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>1. <u>Pricing for dairy biogas should be higher to reflect the higher levelized cost of energy from this resource.</u></p> <p>Sustainable Conservation argued for a different price for dairy biogas, given that it has a higher levelized cost of energy. The Commission agreed, allowing the price for dairy biogas to adjust separately from the price for other agricultural bioenergy.</p>	<p><u>Showing by Sustainable Conservation</u></p> <p>From <i>Comments of Sustainable Conservation on Staff Proposal</i>, December 30, 2013</p> <p>“The starting price for energy from dairy biogas projects in the ReMAT program should be higher than that of other types of energy. There should be a higher starting price for dairy biogas within Category 2, reflecting the higher levelized cost of energy for this source and the impact dairy biogas can have on methane emissions.” (p. 9)</p> <p>From <i>Comments of Sustainable Conservation on Proposed Decision</i>, December 20, 2014</p> <p>“The Proposed Decision allows the price for dairy projects in Category 2 to</p>	Yes

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	<p>adjust separately from “other agricultural” bioenergy. This is an appropriate way to acknowledge that bioenergy from dairy waste currently is more costly than bioenergy from other agricultural resources. The Commission should adopt this pricing distinction.” (p. 1)</p> <p>From <i>Reply Comments of Sustainable Conservation on Proposed Decision</i>, December 15, 2014</p> <p>“Contrary to assertions made by the investor-owned utilities in their opening comments on the Proposed Decision, pure “market fundamentalism” is not the only value the Commission needs to keep in mind in the implementation of SB 1122 (or SB 32, for that matter). The Commission’s proposal to create separate pricing mechanisms for each category, including dairy, is a valid exercise of its discretion, as articulated in the FERC Clarification Order, and an appropriate discharge of its duty to reflect the intent of the Legislature in its implementation of SB 1122.” (p. 2)</p> <p><u>D.14-12-081</u></p> <p>Finding of Fact 34. In view of the significant differences between dairy bioenergy and other agricultural bioenergy, it is reasonable to allow the price for dairy bioenergy to adjust separately from the price for other agricultural bioenergy.</p> <p>Conclusion of Law 38. In order to take account of the significant differences between dairy bioenergy and other agricultural bioenergy, the price for dairy bioenergy should be allowed to adjust separately from the price for other agricultural bioenergy in the bioenergy FiT.</p>	

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>2. <u>The Commission should ensure that the allocation of capacity reflects the geographic location of the feedstocks for each resource type, particular dairy biogas, which is located predominantly in PG&E's service territory.</u></p> <p>Sustainable Conservation pointed to the Staff Report and Consultant Report, which both identified significantly more capacity for dairy digesters in PG&E's service territory than elsewhere in the State. Sustainable Conservation suggested that the SB 1122 program will more likely achieve its target for this technology if more capacity is assigned to the PG&E service territory.</p> <p>In Comments on the Proposed Decision, Sustainable Conservation proposed a methodology for allocating these resources. While this methodology was not adopted, it did advance the discussion of how the Commission could balance the reality of resource location with the language of the authorizing legislation.</p>	<p><u>Showing by Sustainable Conservation</u></p> <p>From <i>Comments of Sustainable Conservation on Staff Proposal</i>, December 30, 2013</p> <p>"...the Consultant Study and Staff Report indicate the large majority of dairy biogas projects are in PG&E's service territory. The AB 32 Scoping Plan Update documents that dairy biogas accounts for 27% of all methane emissions statewide. The Commission should do everything in its authority to prioritize the deployment of biogas digester technology in PG&E's service territory. This may mean re-allocating capacity from SCE to PG&E." (p. 11)</p> <p>From <i>Comments of Sustainable Conservation on Proposed Decision</i>, December 20, 2014</p> <p>"The Proposed Decision notes that no party proposed a "basic method or structure for the reallocation" of Category 2 resources to accommodate the reality of where resources are located. Sustainable Conservation suggests a simple allocation based on the actual capacity identified by the Commission staff and consultants. As noted above, 73% of the total Category 2 resources are located in PG&E's territory. The Commission should therefore allocate 73% of the SB 1122 target for Category 2 – 65.5 MW – to PG&E, and the remaining amount – 24.5 MW – to SCE.</p> <p>In order to do so, the Commission should make immediate use of the mechanism created by SB 1122 and codified at Public Utilities Code Sec. 399.20(f)(3):</p> <p>(A) The commission, in consultation with the State Energy</p>	<p>Yes</p>

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	<p>Resources Conservation and Development Commission, the State Air Resources Board, the Department of Forestry and Fire Protection, the Department of Food and Agriculture, and the Department of Resources Recycling and Recovery, may review the allocations of the 250 additional megawatts identified in paragraph (2) to determine if those allocations are appropriate.</p> <p>(B) If the commission finds that the allocations of the 250 additional megawatts identified in paragraph (2) are not appropriate, the commission may reallocate the 250 megawatts among the categories established in subparagraph (A) of paragraph (2).</p> <p>The Proposed Decision on p. 72 refers to Sec. 399.20(f)(3) and says that the process it creates should be “undertaken, if at all, after the bioenergy FiT is established and functioning.” We respectfully suggest that the Commission should not wait to make a common sense determination in this instance, particularly given its own Finding of Fact 17, cited above.” (pp. 5-6)</p> <p><u>D.14-12-081:</u> Discussion pp. 38-42.</p> <p>Finding of Fact 13. Resources for fuel for the different bioenergy technologies identified in SB 1122 are not evenly distributed among the service territories of PG&E, SCE, and SDG&E.</p>	<p>Yes: although the intervenor did not persuade the Commission to rely solely on project location in allocating MW targets for</p>

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
		Category 2 resources, the Commission considered the project location among other factors.

B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: Agricultural Energy Consumers Association; California Farm Bureau Federation; Environmental Defense Fund; Bioenergy Association of California; Dairy Cares.		Verified
d. Intervenor's claim of non-duplication: Sustainable Conservation's advocacy has been from the perspective of the environmental benefits of biogas technology, particularly in agricultural and food processing applications. This is a different perspective from other parties that advocate on biogas issues. Sustainable Conservation is the only environmental organization in the proceeding with this particular focus. Sustainable Conservation took a leadership role in coordinating with other parties who held similar positions. Sustainable Conservation organized conference calls, meetings, and joint pleadings among these parties. There may have been situations in which the positions of Sustainable Conservation and other parties were similar. Sustainable Conservation attempted through conference calls and advance exchange of pleadings to avoid duplication.		Verified

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§ 1801 and § 1806):**

a. Intervenor's claim of cost reasonableness:	CPUC Discussion
<p>Sustainable Conservation is the only non-profit environmental organization with a specific focus on the environmental benefits of biogas technology in the agricultural and food processing industries in these proceedings. Sustainable Conservation's focus on ensuring a diversity of renewable resources in California's electricity portfolio should provide numerous benefits to ratepayers. Biogas digesters provide baseload renewable power, which assists with peak demand and load management. Installing biogas digesters on farms and food processing facilities throughout California should relieve congestion on distribution lines and reduce the need to construct new transmission. Biogas digesters have the additional benefit of significantly reducing emissions of methane, a powerful greenhouse gas. While the policy and procedural contributions from Sustainable Conservation can be difficult to quantify in monetary terms, we submit that Sustainable Conservation contributed substantially to the adoption of D.14-12-081, as discussed above.</p>	Verified
<p>b. Reasonableness of hours claimed:</p> <p>Sustainable Conservation has maintained a high level of participation over many years on issues related to tariffs that will facilitate the deployment of methane digesters. The organization uses staff strategically and sparsely: one in-house staff person focused on statutory and legal issues (Stacey Sullivan), one in-house staff person focused on technical, business, and economic analysis (Ryan Flaherty) and a regulatory consultant (Jody London). Ms. London has taken the lead in reviewing and summarizing relevant documents and communications, developing written comments, coordinating and consulting with other parties as part of the organization's development of positions, and setting meetings with CPUC staff and decision makers. Mr. Sullivan and Mr. Ryan have provided technical review, researched technical issues related to the feed-in tariff and biogas technology, and ensured consistency with Sustainable Conservation's mission. Mr. Sullivan and Mr. Ryan traded off participation in key conference calls and meetings along with Ms. London to ensure the technical aspects and organizational priorities were fully represented.</p>	
<p>c. Allocation of hours by issue:</p> <p>ISSUE AREAS</p> <ul style="list-style-type: none"> A Dairy biogas pricing B Capacity Allocation 	

	A	B	Hours	
London	14.75	14.75	29.50	
Sullivan	6.75	6.75	13.50	
Flaherty	3.65	3.35	7.00	
Total	25.15	24.85	50.00	
	50.30			
Percentage	%	49.70%		

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Stacey Sullivan	2013, 2014	14	\$241	D.14-11-037, ALJ-303	\$3,374.00	14	\$240 ²	\$3,360.00
Ryan Flaherty	2014	7	\$210	ALJ-303	\$1,470.00	7	\$210	\$1,470.00
Jody London	2013, 2014	29.5	\$210	D.14-11-037, ALJ-303	\$6,195.00	29.5	\$210	\$6,195.00
Subtotal: \$11,039.00						Subtotal: \$11,025.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Stacey Sullivan	2014	1	\$120.50	D.14-11-037, ALJ-303	\$120.50	1	\$120	\$120.00
Ryan Flaherty	2014	.5	\$105	ALJ-303	\$52.50	0.5	\$105	\$52.50
Jody London	2013, 2014	3.5	\$105	D.14-11-037, ALJ-303	\$367.50	3.5	\$105	\$367.50
Subtotal: \$540.50						Subtotal: \$540.00		
TOTAL REQUEST: \$11,579.50						TOTAL AWARD: \$11,565.00		
**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and								

² Application of 2.58% Cost-of-Living-Adjustment (COLA) per Resolution ALJ-303. Sullivan's last approved hourly rate of \$235 was in 2012. As such, we apply the 2.58% COLA to \$235, to adopt the 2014 hourly rate of \$240, rounded to the nearest \$5 increment. Please note, this rate is reflective of expert rates per ALJ-303, as Sullivan is currently an inactive member of the State Bar of California.

any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate

ATTORNEY INFORMATION			
Attorney	Date Admitted to CA BAR ³	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
(James) Stacey Sullivan III	June 13, 1996	182733	No; however, from January 1, 2004 until February 1, 2008 and from June 9, 2014 until present, Sullivan was an inactive member of the California State Bar.

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service
Comment 1	<p>Rate for Stacey Sullivan. Sustainable Conservation claims an hourly rate of \$241 for Mr. Sullivan. This reflects the hourly rate of \$235 for work performed in 2012 approved for Mr. Sullivan in D.13-10-039 and D.14-11-037, plus a 2.58% Cost of Living Adjustment as authorized in Resolution ALJ-303.</p> <p>Mr. Sullivan directs Sustainable Conservation's public policy program. Prior to joining Sustainable Conservation in 2009, Sullivan spent 12 years as a committee consultant to the California State Assembly. After working as a consultant to the Natural Resources Committee and Budget Subcommittee #3 (Resources), he served for eight years as Chief Consultant to the Local Government Committee. His work while with the Assembly included in-depth involvement in significant legislation and policy initiatives concerning the California Environmental Quality Act, water policy, sustainable agriculture, housing, and land use planning. Sullivan was educated at the University of California, Santa Cruz, University of Oxford, and King Hall School of Law at the University of California, Davis.</p>
Comment 1	<p>Rate for Jody London. Sustainable Conservation claims an hourly rate of \$210 for Ms. London. This reflects the hourly rate of \$205 for work performed in 2012 approved for Ms. London in D.13-10-039 and D.14-11-037, plus a 2.58% Cost of Living Adjustment as authorized in Resolution ALJ-303.</p> <p>Ms. London has nearly 25 years' experience in the energy industry and before the Commission. Her work in this proceeding has frequently been in lieu of work that would otherwise be performed by an attorney with equivalent experience, at a significantly higher rate (\$300-\$535). Therefore the requested rate for Ms. London is extremely reasonable.</p>
Comment 1	Rate for Ryan Flaherty. Sustainable Conservation claims an hourly rate of \$210 for Ryan

³ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>

	<p>Flaherty. Flaherty joined Sustainable Conservation in 2014 as Director of Business Partnerships. In this role, he leads the organization's efforts to promote strategies for San Joaquin Valley dairies for managing animal waste in ways that benefit clean air and water.</p> <p>Mr. Flaherty has 12 years' experience of increasing responsibility and complexity managing sustainable development initiatives in the U.S. and Latin America, with a particular focus on agriculture and on developing stronger relationships between farmers and corporations. He holds a B.A. from Tulane University and an International M.B.A. from the Moore School of Business at the University of South Carolina. His resume is attached.</p>
	Certificate of Service is provided in a separate document.
	<p>Attachments to this Claim include:</p> <p>List of Pleadings</p> <p>Organizational Bylaws</p> <p>Resume for Ryan Flaherty</p> <p>Detailed Time Records</p>

D. CPUC Disallowances and Adjustments:

Item	Reason
Part I.B12.	Sustainable Conservation must file a current showing of significant financial hardship in the next NOI filed after the date of issuance of today's decision. (<i>See</i> Pub. Util. Code Section 1804(b)(1))
Hourly rate of Ryan Flaherty.	Sustainable Conservation's request of Flaherty's 2014 hourly rate is well within the range of experts with 12 years of experience, per Resolution ALJ-303. As such, we approve the requested rate of \$210 per hour for 2014.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

1. Sustainable Conservation has made a substantial contribution to D.14-12-081.
2. The requested hourly rates for Sustainable Conservation's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.

3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$11,565.00.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Sustainable Conservation shall be awarded \$11,565.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay Sustainable Conservation their respective shares of the award, based on their California-jurisdictional revenues for the 2014 calendar year to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 10, 2015, the 75th day after the filing of Sustainable Conservation's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, 2015, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1412081		
Proceeding(s):	R1105005		
Authora:	ALJ Simon and ALJ Mason		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Sustainable Conservation	2/24/2015	\$11,579.50	\$11,565.00	N/A	Change in hourly rates.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Stacey	Sullivan	Advocate	Sustainable Conservation	\$241	2013	\$240
Stacey	Sullivan	Advocate	Sustainable Conservation	\$241/\$120.50	2014	\$240/\$120
Ryan	Flaherty	Expert	Sustainable Conservation	\$210/\$105	2014	\$210/\$105
Jody	London	Expert	Sustainable Conservation	\$210/\$105	2013	\$210/\$105
Jody	London	Expert	Sustainable Conservation	\$210/\$105	2014	\$210/\$105

(END OF APPENDIX)